
UNITED STATES DISTRICT COURT**EASTERN DISTRICT OF TEXAS**

UNITED STATES OF AMERICA

versus

JAMES ANTHONY BEROTTE

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CASE NO. 1:08-CR-86

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Before the court is a report and recommendation of the United States magistrate judge regarding defendant's mental competency. Counsel for the government and the defendant agree with the recommendation. No objections to the report and recommendation have been filed.

Having conducted an independent review, the court concludes that the defendant is not competent to permit the revocation proceedings to go forward because he is unable understand the nature and consequences of the proceeding against him, and unable to assist his attorney in his defense. The court further concludes that the defendant should be committed to custody of the Attorney General to determine whether there is a substantial probability that defendant will in the foreseeable future attain the capacity to permit the revocation proceedings to go forward. It is therefore

ORDERED that the report and recommendation of the United States magistrate judge on defendant's competency is ADOPTED. It is further

ORDERED that under provisions of Title 18 United States Code, section 4241(d), defendant is committed to the custody of the Attorney General, who shall hospitalize defendant for treatment in a suitable facility –

- 1) for such reasonable period of time, not to exceed four (4) months, as is necessary to determine whether there is substantial probability that in the foreseeable future he will attain the capacity to permit the revocation proceedings to go forward; and
- 2) for an additional period of time until –
 - A) defendant's mental condition is so improved that revocation proceedings may go forward, if the court finds that there is substantial probability that within such additional period of time he will attain capacity to permit the revocation proceedings to go forward ; or
 - B) pending charges against defendant are disposed of according to law;

whichever is earlier. If, at the end of the time specified, it is determined that defendant's mental condition has not so improved as to permit the revocation proceedings to go forward, defendant is subject to the provisions of Title 18 United States Code, section 4246.

SIGNED at Beaumont, Texas, this 31st day of May, 2011.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE